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MEMORANDUM ENDORSEMENT

Wilmington PT Corp. v. Peralta Rosario et al, No. 19-cv-2642 (NSR)

The Court is in receipt of Defendants Maximo A. Peralta-Rosario and Maria D. Rosario's papers in opposition to the pending motion for default judgment before the Court and moving to dismiss Plaintiff's Complaint for insufficient service of process and lack of personal jurisdiction. (ECF Nos. 69–72.)

Defendants' motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(2) & (5) is DENIED without prejudice for failure to follow the Court's Individual Practices in Civil Cases. *See* Sec. 3.A.ii.

Notwithstanding, the Court hereby waives the pre-motion conference requirement and grants Defendants Maximo A. Peralta-Rosario and Maria D. Rosario leave to file a motion to dismiss in accordance with the following briefing schedule:

- (1) Defendants' moving papers are to be served (not filed) on March 15, 2022;
- (2) Plaintiff's opposition papers are to be served (not filed) on April 15, 2022;
- (3) Defendants' reply papers are to be served on April 22, 2022.


All motion papers are to be filed by the parties on the reply date, April 22, 2022. Defendants are directed to refile their moving papers on April 22, 2022. The parties are directed to provide Chambers with two physical courtesy copies of their motion papers on the same date they are served on opposing counsel. The parties are further directed to provide the Court with an electronic courtesy copy of the motion papers as they are served per this Court's local emergency civil rules.

The Clerk of Court is respectfully directed to terminate the motions at ECF Nos. 69, 72, 74, and 75.

DATED: April 11, 2022

White Plains, NY

SO ORDERED:


HON. NELSON S. ROMAN
UNITED STATES DISTRICT JUDGE

Andrew J. Spinnell, Esq.
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
WILMINGTON PT CORP.,

Plaintiff,

-against-

MAXIMO PERALTA ROSARIO aka MAXIMO A.
PERALTA ROSARIO a/k/a MAXIMO PERALTA-
ROSARIO, MARIA D. ROSARIO, NEW YORK
CITY DEPARTMENT OF TRANSPORTATION
PARKING VIOLATIONS BUREAU, NEW YORK CITY
TRANSIT ADJUDICATION BUREAU, AMERICAN
EXPRESS CENTURION BANK, CRIMINAL COURT
OF THE CITY OF NEW YORK, BRONX SUPREME
COURT, MIDLAND CREDIT MANAGEMENT INC.,
AND THE EDUCATION RESOURCES INSTITUTE, INC.,

Defendants.

Docket No.: 19-cv-02642-NSR

NOTICE OF MOTION

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SIRS:

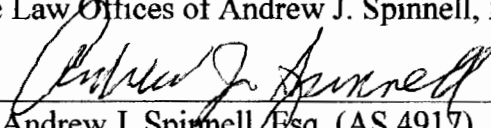
Upon the annexed Affidavit of MAXIMO A. PERALTA-ROSARIO in OPPOSITION AND IN SUPPORT, sworn to March 12, 2022, the annexed Affidavit of Defendant MARIA D. ROSARIO IN OPPOSITION AND IN SUPPORT, sworn to March 12, 2022, the annexed Declaration of ANDREW J. SPINNELL, Esq., in OPPOSITION AND IN SUPPORT dated March 11, 2022 with Exhibits, including the Answer and Counterclaim, and the annexed Defendants' Memorandum of Law in Opposition and in Support, the undersigned will move this Court before the Hon. Nelson S. Roman in Courtroom 218 at the courthouse located at 300

Quarropas Street, White Plains, NY 10601, at 10:00 A.M. on March 16, 2022, or as soon thereafter as counsel can be heard, for an Order:

- (A) pursuant to F. R. Civ. P. 55 (c), vacating the moving Defendants' default in failing to answer the Summons and Complaint herein and deeming the annexed Affidavits of both moving Defendants, the Declaration of Andrew J. Spinnell, Esq., and said Defendants' Memorandum of Law as opposition to Plaintiff's Motion for a Default Judgment of Foreclosure and Sale, and
- (B) pursuant to F. R. Civ. P. 12 (b) (2) and (5), dismissing the Complaint and the above entitled action for insufficient service of process and lack of personal jurisdiction therefor, and for such other relief as is just and proper.

Pursuant to Order of this Court dated 2/14/2022 responses shall be served on or before March 31, 2022.

Dated: New York, New York
March 14, 2022

Yours, etc.,
The Law Offices of Andrew J. Spinnell, LLC
By: 
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